

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. GRADFORD,

Plaintiff,

v.

F. VELASCO, et al.,

Defendants.

No. 1:20-cv-00543-DAD-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO REOPEN THIS CASE

(Doc. No. 74)

Plaintiff William J. Gradford is a former pretrial detainee who filed this civil rights action on April 16, 2020, pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 1, 2021, the assigned magistrate judge issued findings and recommendations, recommending that this case be dismissed without prejudice as voluntarily dismissed and provided the parties fourteen (14) days to file any objections. (Doc. No. 70.) After no timely objections were filed, this court adopted the findings and recommendations on August 2, 2021, and this case was closed. (Doc. No. 71.)

On September 20, 2021, plaintiff filed a document titled "objections due process clause," which the court construed as objections to the magistrate judge's findings and recommendations. (Doc. No. 72.) These objections were untimely, and they also failed to state any coherent objections or provide any reason for the court to reopen the case. Accordingly, the court declined

1 to reopen this case. (Doc. No. 73.) Then, on October 25, 2021, plaintiff filed a motion to reopen
2 the case. (Doc. No. 74.) Therein, plaintiff once again fails to state any coherent reasoning for
3 why the court should reopen this case.

4 Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders of the
5 district court. Rule 60(b) permits a district court to relieve a party from a final order or judgment
6 on grounds of: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered
7 evidence . . .; (3) fraud . . . of an adverse party; (4) the judgment is void; (5) the judgment has
8 been satisfied . . . or (6) any other reason justifying relief from the operation of the judgment.”
9 Fed. R. Civ. P. 60(b).

10 Reconsideration of a prior order is an extraordinary remedy “to be used sparingly in the
11 interests of finality and conservation of judicial resources.” *Kona Enters., Inc. v. Estate of*
12 *Bishop*, 229 F. 3d 877, 890 (9th Cir. 2000) (citation omitted); *see also Harvest v. Castro*, 531
13 F.3d 737, 749 (9th Cir. 2008) (addressing reconsideration under Rule 60(b)). In seeking
14 reconsideration under Rule 60, the moving party “must demonstrate both injury and
15 circumstances beyond his control.” *Harvest*, 531 F.3d at 749 (internal quotation marks and
16 citation omitted).

17 “A motion for reconsideration should not be granted, absent highly unusual
18 circumstances, unless the district court is presented with newly discovered evidence, committed
19 clear error, or if there is an intervening change in the controlling law,” and it “may *not* be used to
20 raise arguments or present evidence for the first time when they could reasonably have been
21 raised earlier in the litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571
22 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted) (emphasis in
23 original). Further, Local Rule 230(j) requires, in relevant part, that a movant show “what new or
24 different facts or circumstances are claimed to exist which did not exist or were not shown”
25 previously, “what other grounds exist for the motion,” and “why the facts or circumstances were
26 not shown” at the time the substance of the order which is objected to was considered.

27 Plaintiff’s motion does not identify any basis under Rule 60 upon which this court should
28 reconsider its order dismissing this action. Plaintiff has not set forth facts or law providing a

1 basis upon which the court should reverse its prior decision. Therefore, plaintiff's motion for
2 reconsideration (Doc. No. 74) will be denied.

3 Accordingly,

- 4 1. Plaintiff's motion to reopen the case (Doc. No. 74) is denied;
- 5 2. The court will not consider any further filings and will not issue any further orders
6 in this closed case; and
- 7 3. This case remains closed.

8 IT IS SO ORDERED.

9 Dated: **January 26, 2022**


UNITED STATES DISTRICT JUDGE